

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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VICTOR BENITEZ,

Plaintiff,

DECLARATION OF SERVICE
07 Civ. 4814 (PAC)

- against -

THE CITY OF NEW YORK, "JOHN" SMITH, the first name being unknown and fictitious, being a Captain employed by the New York City Correction Department, and "JOHN" GAINES and "JANE" SANTIAGO, the first names being unknown and fictitious, being Correction Officers employed by the New York City Correction Department,

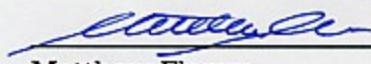
Defendants.

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STATE OF NEW YORK)
: SS. :
COUNTY OF KINGS)

MATTHEW FLAMM, declares the following under penalty of perjury pursuant to 28 U.S.C. §1746:

That on June 6, 2007, I served the SUMMONS AND COMPLAINT upon defendant City of New York, at The New York City Law Department, 100 Church Street, New York, New York, that being an address within the State theretofore designated for that purpose, by personally delivering a copy thereto as evidenced by the date/time stamp appearing on the annexed copy of the Summons and the first page of the Complaint.


Matthew Flamm

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VICTOR BENITEZ,

Plaintiff,

- against -

JUDGE CROTTY

07 CIV 4814

SUMMONS

IN A CIVIL CASE

THE CITY OF NEW YORK, "JOHN" SMITH,
the first name being unknown and fictitious,
being a Captain employed by the New York City
Correction Department, and "JOHN" GAINES
and "JANE" SANTIAGO, the first names being
unknown and fictitious, being Correction
Officers employed by the New York City
Correction Department,

CITY OF N.Y. LAW DEPART.
OFFICE OF CORP. COUNSEL
COMMUNICATIONS

2007 JUN 6 PM 2 32

Defendants.

To: THE CITY OF NEW YORK, 100 Church Street, New York, NY 10007; "John" Smith, "John" Gaines and "Jane" Santiago.

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEYS

Matthew Flamm, 26 Court Street, Suite 600, Brooklyn, New York 11242

an answer to the complaint which is herewith served upon you, within ____ days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

CLERK


Victor Benitez

DEPUTY CLERK

JUN 06 2007

DATE

JUDGE CROTTY

07 CIV 4814

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-x-

VICTOR BENITEZ,

Plaintiff,

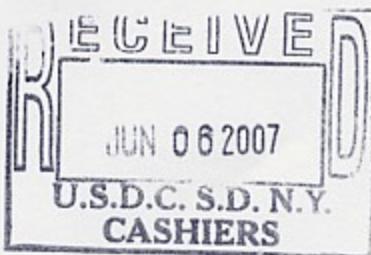
COMPLAINT

- against -

THE CITY OF NEW YORK, "JOHN" SMITH, the first name being unknown and fictitious, being a Captain employed by the New York City Correction Department, and "JOHN" GAINES and "JANE" SANTIAGO, the first names being unknown and fictitious, being Correction Officers employed by the New York City Correction Department,

Defendants.

Jury Trial Demanded



Victor Benitez, by his attorney, Matthew Flamm, alleges the following as his Complaint:

Nature of the Action

1. This civil rights action arises from the brutal and unnecessary use of force on Victor Benitez on January 25, 2007 while plaintiff was a sentenced inmate imprisoned in a City-run jail on Rikers Island. Plaintiff seeks declaratory relief pursuant to 28 U.S.C. §2201 and, under 42 U.S.C. §1983, compensatory and punitive damages for violation of his civil rights.

CITY OF NY, LAW DEPART.
OFFICE OF CORP. COUNSEL
COMMUNICATIONS

Jurisdiction

2. This action arises under the Eighth and Fourteenth Amendments to the United States Constitution, 42 U.S.C. §1983, the Constitution of the State of New York, and New York statutory and common law. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1331 and §1334(3). Plaintiff asserts jurisdiction over the City of New York under 28 U.S.C. §1337 and asks that this Court exercise pendent jurisdiction over those state law claims arising out of the same common nucleus of operative facts as do plaintiff's federal claims.